

UNITED STATES DISTRICT COURT

for the

Southern District of Indiana

United States of America

v.

JONATHAN MARTINEZ

Date of Original Judgment: 08/04/2023

Date of Previous Amended Judgment: _____

(Use Date of Last Amended Judgment if Any)

Case No: 1:21-CR-00373-TWP-MJD-01USM No: 76545-509

James A. Edgar (former)

Defendant's Attorney

**ORDER REGARDING MOTION FOR SENTENCE REDUCTION
PURSUANT TO 18 U.S.C. § 3582(c)(2)**

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months **is reduced to** _____.

(See Page 2 for additional parts. Complete Parts I and II of Page 2 when motion is granted)

Except as otherwise provided, all provisions of the judgment dated 08/04/2023 shall remain in effect.**IT IS SO ORDERED.**Order Date: 5/22/2024


Judge's signature

Effective Date: _____
(if different from order date)

Honorable Tanya Walton Pratt, U.S. District Court Chief Judge

Printed name and title

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 1:21-cr-00373-TWP-MJD
)	
JONATHAN MARTINEZ,)	-01
)	
Defendant.)	

ORDER DENYING MOTION FOR REDUCTION OF SENTENCE

This matter is before the Court on Defendant Jonathan Martinez's ("Martinez") Motions for Reduction of Sentence filed pursuant to 18 U.S.C. § 3582, U.S.S.G. § 1B1.10, and Amendment 821 to the Sentencing Guidelines (Filing No. 52; Filing No. 58).¹ Martinez was convicted of Possession with Intent to Distribute 40 Grams or More of a Mixture or Substance Containing a Detectable Amount of Fentanyl (Filing No. 50). He received a sentence of 87 months (Filing No. 50). He seeks a reduction of his sentence pursuant to Part B of Amendment 821. Plaintiff United States of America (the "Government") has filed a Response in Opposition, in which it asserts that Martinez is ineligible for reduction because Part B of Amendment 821 is not applicable to him (Filing No. 60).

The Court has the authority to modify a previously imposed sentence pursuant to 18 U.S.C. § 3582(c)(2) if the defendant's guideline range has been lowered subsequent to his sentencing by an act of the United States Sentencing Commission. In determining whether a defendant is eligible for such relief, district courts are to employ a two-step analysis. *See Dillon v. United States*, 560

¹ The Court appointed the Indiana Federal Community Defender to represent Mr. Martinez (Filing No. 53). Counsel was later granted leave to withdraw (Filing No. 56). Mr. Martinez was afforded an opportunity to supplement his petition following the withdrawal, and he filed an amended motion on April 12, 2024 (Filing No. 58).

U.S. 817, 826 (2010). At step one, the Court is to determine whether the defendant is eligible for resentencing and the extent of the reduction authorized. *Id.* at 827. In making this determination the Court must heed the binding instructions of the Sentencing Commission codified at U.S.S.G. § 1B1.10. *Id.* at 828-29. If the defendant is eligible for a reduction, the Court advances to the second step. At the second step, the Court considers any applicable § 3553(a) factors and determines whether, in the Court's discretion, the authorized reduction is warranted in whole or in part under the particular circumstances of the case *Id.* at 827.

As to the step one analysis under *Dillon*, the Court agrees with the Government that Martinez is ineligible for a sentence reduction because Part B to Amendment 821 does not apply to him. In Part B, the Sentencing Commission added a two offense level reduction for certain offenders with zero criminal history points under the new U.S.S.G. § 4C1.1. Martinez received criminal history points for a prior offense, but Martinez contends that the prior offense should not be counted because it occurred over twelve years ago and he has maintained good conduct while incarcerated (Filing No. 58 at 2). The Court recognizes that Martinez's prior offense occurred more than a decade ago, but Martinez's prior conviction and incarceration² nevertheless count toward his criminal history points under U.S.S.G. § 4A1.1 because they both occurred within the 15-year period preceding the instant offense. *See* U.S.S.G. § 4A1.1, cmt. n.1. Further, even if the prior offense were not counted toward Martinez's criminal history points, Martinez would still be ineligible under Part B to Amendment 821 because he possessed a firearm in connection with the instant offense. (PSR ¶ 21); U.S.S.G. § 4C1.1(a)(7).

Because Martinez's criminal history points make him ineligible for Part B to Amendment 821, his guideline range does not change, and he is not eligible for resentencing. *See* § 3581(c)(2);

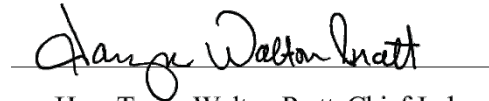
² Martinez was released in 2016 related to the prior offense (Filing No. 60 at 4–5).

§ 1B1.10(a)(2)(B). The Court will therefore not proceed to step two under *Dillon*, though the Court commends Martinez for his diligent efforts toward his personal and professional growth while in custody and sincerely hopes those efforts continue.

Martinez's Motions for Reduction of Sentence (Filing No. 52; Filing No. 58) are **DENIED**.

SO ORDERED.

Date: 5/22/2024

A handwritten signature in black ink, reading "Tanya Walton Pratt", is written over a horizontal line.

Hon. Tanya Walton Pratt, Chief Judge
United States District Court
Southern District of Indiana

Distribution:

All Electronically Registered Counsel

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